

RICHARD DOYLE, City Attorney (#88625)
GEORGE RIOS, Assistant City Attorney (77908)
ROBERT FABELA, Sr. Deputy City Attorney (148098)
Office of the City Attorney
200 East Santa Clara Street
San José, California 95113-1905
Telephone Number: (408) 535-1900
Facsimile Number: (408) 998-3131
E-Mail Address: cao.main@sanjoseca.gov

Attorneys for CITY OF SAN JOSE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

JEFFREY WELCH, GLEN BISHIP,
MITCHELL WITSINSKI, ROBERT
CULBERTSON and other employees
similarly situated,

Plaintiffs,

v.

CITY OF SAN JOSE,

Defendants.

Case Number: C08-02132 JW

**STIPULATION AND [PROPOSED]
ORDER CONTINUING THE CASE
MANAGEMENT CONFERENCE**

STIPULATION

This case involves the claim by certain plaintiff firefighters that the City of San Jose has not made overtime payments to plaintiffs pursuant to the Fair Labor Standards Act. This case has been related to *Diaz, et al. v. City of San Jose*, case number C07-06424 JW, which also involves FLSA claims by certain firefighters against the City of San Jose.

In the related *Diaz* matter, the Court appointed Thomas Gosselin, Esq. as the early neutral evaluator in this matter. The parties engaged in an ENE session before Mr. Gosselin on July 21, 2008. At the end of session, it was determined that it would be most efficient for the parties and the court, and would more likely result in the informal resolution of this

1 matter, were the parties to engage in another ENE session with Mr. Gosselin after having a
 2 reasonable opportunity to further study the scope of the damages being claimed by Plaintiffs
 3 under the Fair Labor Standards Act. The parties have also agreed to attempt to address this
 4 related case, *Welch v. City of San Jose*, at the second ENE.

5 The parties have now agreed with Mr. Gosselin to conduct the next phase of the ENE
 6 session, which will include both the *Diaz* and the *Welch* matter, on September 18, 2008.

7 The Case Management Conference in this case is currently scheduled for September
 8 8, 2008, ten days prior to the scheduled ENE. The parties agree that it would be more
 9 efficient and productive for the Case Management Conference to occur after the ENE
 10 session on September 18. After having consulted with court staff on available alternative
 11 dates, the parties have agreed to a new Case Management Conference date of October 20,
 12 2008, pending approval from this Court.

13 WYLIE, MCBRIDE, PLATTEN & RENNER

14
 15 Dated: August 22, 2008

By: /s/ Carol L. Koenig
 CAROL L. KOENIG

16 Attorney for Plaintiffs, JUAN DIAZ, KEITH
 17 KEESLING, CHRISTOPHER MURPHY,
 18 GARY WEEKLEY, and KAREN ALLEN

19 RICHARD DOYLE, City Attorney

20
 21 Dated: August 22, 2008

By: /s/ Robert Fabela
 ROBERT FABELA
 Sr. Deputy City Attorney

22 Attorney for Defendant CITY OF SAN JOSE

23
 24
 25 ATTESTMENT OF CONCURRENCE PER GENERAL ORDER 45 FOR FILING:

26 I attest that concurrence in the filing of this document by the signatories, Robert
 27 Fabela and Carol L. Koenig, has been obtained, and that a record of the concurrence shall
 28 be maintained at the Office of the City Attorney.

1 Date: August 22, 2008

By: /s/ Robert Fabela
ROBERT FABELA

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

[PROPOSED] ORDER

IT IS HEREBY ORDERED that the Case Management Conference in this matter shall be continued to October 20, 2008, at 10:00 a.m. The last day to file a Rule 26(f) Report and Case Management Statement shall be continued to October 10, 2008.

Dated: August ____, 2008

UNITED STATES DISTRICT JUDGE